

Licence Application Decision

Inter-City Bus

Application #	10093-20
Applicant & Application Summary	<p>Thompson Valley Charters Ltd.</p> <p>Amend ICBA Licence</p> <ul style="list-style-type: none"> • Amend the terms and conditions of a licence with Special Authorization: Inter-City Bus Authorization (ICBA) • Add the following route on a reservation basis: <ul style="list-style-type: none"> • Route 2: Kamloops – BC/Alberta border (HWY 16)
Applicant Information	<p><i>Current Passenger Transportation Licence: #70102 with:</i></p> <ul style="list-style-type: none"> • Inter-City Bus Authorization (ICBA) • General Authorization (GA) <p><i>Principals:</i></p> <ul style="list-style-type: none"> • Joseph Jean Andre-Roger Nadeau, and • Ian Raymond Roger NADEAU <p><i>Office: #102 -1113 Chief Louis Way, Kamloops, BC V2H 1J8</i></p>
Publication of Application	October 14, 2020
Submissions & Public Comments	<ul style="list-style-type: none"> • Diversified Transportation Ltd. (Ebus)
Board Decision	<p>The application is approved in whole:</p> <ul style="list-style-type: none"> • Proposed terms and conditions respecting Route 2 are established as requested in the application summary.
More Info	<p>Notice of applications and published decisions are posted in the PT Board Bulletin. For convenience, published documents for recent ICB applications are listed on the bus application webpage.</p>
Decision Date	February 4, 2021
Panel Chair	Garland Chow

I. Introduction

Thompson Valley Charters Ltd. (TVC) has a licence to operate inter-city buses (ICBs) during the Winter ski season. The licence includes the following route and minimum route frequency (MRF):

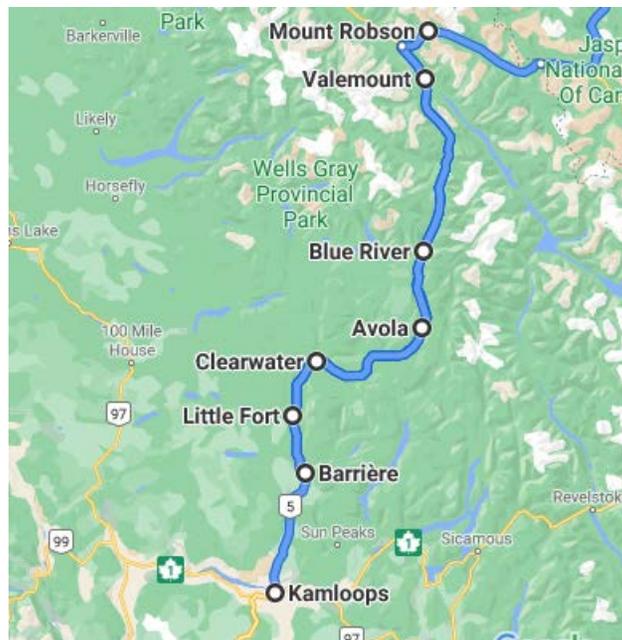
- Route 1 (City of Kamloops – Sun Peaks Resort): 1 trip per/day in each direction.

TVC also has an authorization to operate general passenger vehicles.

Thompson Valley Charters Ltd. is applying to add a second route (Route 2) to its ICB authorization. The minimum route frequency for the second route is 2 trips per week in each direction with the following route points:

- Kamloops
- Clearwater
- Valemount
- Barriere
- Avola
- Mount Robson
- Little Fort
- Blue River
- BC/Alberta border (Highway 16)

Figure 1: Proposed Route 2



The applicant's proposed schedule begins with departure from Kamloops on Monday and Thursday and return on Tuesday and Friday respectively. This year-round service would pick up passengers anywhere along the route in addition to locations listed as route points.

All passengers must make reservations which will be available online, with an app on a passenger's smartphone or tablet or through third party agents. TVC would also make tickets available through other websites.

The buses will not be wheelchair accessible and no other passenger services for a fee, such as food, are provided.

II. Background

Thompson Valley Charters Ltd. (TVC) was incorporated in British Columbia on December 5, 1989. TVC was purchased by its current owners in 2018 and is an incorporated private company. The owner/directors are Nadeau, Joseph Jean Andre-Roger and Nadeau, Ian Raymond Roger. TVC's head office is in Kamloops, B.C. Upon acquisition of TVC in 2018, the fleet was increased from 2 buses to 5 buses.

TVC current licence 70102 has a licence with two authorizations, a General Authorization (GA) approved by the Registrar of Passenger Transportation; and a Special Authorization (SA): Inter-city Bus Authorization (ICBA) approved by the Board.

- Under its GA, TVC may operate general passenger vehicles within B.C. and extra provincially crossing BC borders. Under this authority, TVC provides charter service to the public, including customers such as TRU Athletics and Recreation Division and the Kamloops Community YMCA.
- Under its SA: TVC provides ICB service between the City of Kamloops and Sun Peaks Resort during ski season with this authority. As well, TVC can, under specified circumstances, operate on other routes when engaged by another licensed operator.

TVC provides maintenance services to vehicles not owned and operated by TVC.

III. Mandate & Jurisdiction

This application is made under the *Passenger Transportation Act* (the "Act"). The Act regulates the licensing and operation of commercial passenger transportation vehicles in BC.

Under the Act, the Passenger Transportation Board (the "Board") makes decisions on applications for inter-city buses. The Board has the authority to consider and approve applications for new licences as well as applications from existing licensees to change terms or conditions of their licences.

The Board's mandate is stated in section 28 of the Act. Section 28(1) of the Passenger Transportation Act says that the Board may approve, in whole or in part, an application forwarded to it under s. 26(1) after considering whether:

- (a) there is a public need for the service the applicant proposed to provide under any special authorization.
- (b) the applicant is a fit and proper person to provide that service and is capable of providing that service, and
- (c) the application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia.

The Act allows the Board to, among other things,

- accept evidence and information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. [Section 15]
- conduct written, electronic or oral hearings, or any combination of them, as the Board, in its sole discretion, considers appropriate. [Section 17]
- require further information from an applicant. [Section 27(1)(b)]

Section 26(2) of the Act requires the Board to publish the fact and nature of applications and section 27(3) requires the Board to consider applications and any written submissions it receives as result of publication. Section 27(5) says that people who make submissions are not entitled to disclosure of further information, unless the Board orders otherwise.

If the Board approves an application, it will set terms and conditions of licence primarily with respect to routes and service levels.

IV. Procedural Matters

The applicant submitted required forms and responded to the Board's inquiry for additional clarification

This application is being conducted by way of a written hearing.

V. Applicant's Rationale and Submissions

Public Explanation

The applicant provided the following text in the Application Summary that was published in the *Weekly Bulletin*:

"Provide a service to transport passengers from Kamloops to the BC/Alberta border."

Submissions & Applicant's Response

The Board received one submission supportive of the application from a licensed ICB operator, Diversified Transportation Ltd (Ebus).

VI. Reasons for the Board's Decision

Section 28(1) of the Act sets out the factors the Board must consider with respect to this application.

(1) *Is the applicant a fit and proper person to provide its proposed service, and is the applicant capable of providing the service?*

The Board looks at this question in two parts:

- (a) is the applicant a *fit and proper person* to provide the proposed service; and,
- (b) is the applicant *capable* of providing the service?

First, with *fit and proper*, the *Oxford English Dictionary* defines *fit* as including “well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate possessing the necessary qualifications, properly qualified, competent, deserving.” Also, the dictionary defines *proper* as including “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right.” When looking at whether an applicant is fit and proper, the Board does so in the context of the passenger transportation industry in British Columbia. This includes the regulatory system that grants businesses a licence which confers on them both the authorization they need to provide their service and an ongoing obligation to operate in accordance with proper standards of conduct.

Second, capability is generally understood to mean that an applicant has the ability or qualities necessary to skillfully and effectively meet its obligations and achieve the results it says it will achieve. When looking at capability, the Board reflects on whether the applicant has demonstrated that it has the knowledge and understanding of relevant regulatory requirements and policies that govern passenger transportation providers, and whether it is able to comply with those requirements. It also looks at whether the applicant has the background, skills and knowledge to manage its proposed service, and the financing to operate it. The Board expects an applicant to demonstrate its competence and ability by providing sound and realistic information in its business plan and financial statements that is consistent and compatible with the transportation service it proposes.

Analysis of fitness and capability

The applicant, under its present ownership, has operated TVC since 2018. TVC’s unaudited National Safety Code rating is “satisfactory- unaudited”, with no contraventions, out of service orders or accidents noted in the Carrier Safety Profile. In the year prior to this application, there were no police reported accidents and seven CVIP inspections were passed. This safety performance is acceptable to the board.

The Disclosure of Unlawful Activity & Bankruptcy forms completed by the two directors were acceptable to the Board. The applicant also signed the Board’s “Declaration” agreeing that it will operate its vehicles in accordance with the *Passenger Transportation Act* and the *Liquor Control*

and Licencing Act in B.C. These disclosures and commitments imply that TVC would operate in accordance with the standards of conduct expected in the passenger transportation industry.

TVC describes Route 2 as the “missing link” that would enable bus service between Vancouver (and other points in B.C.) and Kamloops to be connected to bus service between Jasper and Edmonton (and AB points on the route to Edmonton), allowing passengers to travel directly between Vancouver and Edmonton. TVC had no agreements with other transportation providers to coordinate scheduled service at the time of the submission of the application. The submission by Ebus expressed support for the TVC application stating they expect “ to make full connectivity with TVC and provide a service that will potentially link Vancouver, Vancouver Island, and the lower mainland with all points beyond Kamloops through to Valemount, the BC/AB boarder and possibly through to Edmonton.” In response to a Board inquiry, TVC indicated that it was in discussions with Ebus, Sun Dog Transportation and Busbud. TVC would use the Ebus terminal in Kamloops to pick up/drop off passengers, and the Sun Dog Terminal in Jasper to pick up/drop off passengers. TVC would use the Ebus online system, along with Busbud, which can divide the route to which company is providing which leg of the trip enabling the customer to make a single ticket purchase for a complete trip potentially provided by 3 cooperating bus companies. TVC has provided a reasonable service plan to meet the needs of its target market within BC.

TVC plans to utilize buses from its current fleet of six 48 and 56 Prevost passenger buses. TVC has determined that there is enough fleet capacity to meet anticipated demand for the existing Route 1 from Kamloops to Sun Peaks and the twice a week scheduled service for Route 2 sought in this application and its charter business. Route 2 would be a scheduled route on the calendar all the time and other services booked around this schedule. TVC would upgrade to new coaches as needed. TVC has in house maintenance capacity to service their buses. TVC has adequate equipment resources to provide the service frequency specified in the application.

The key personnel of TVC are experienced in managing transportation and transportation related enterprises including TVC since 2018. Roger Nadeau started driving a bus in 1984 and in 1987 started his own trucking company. He worked in both the passenger and freight sectors throughout the years as these sectors tended to be counter cyclical. He would be responsible for overall general management, drivers and sales.

Ian Nadeau has been in the vehicle maintenance business for 20 years and is responsible for maintenance and dispatching. Bookkeeping, finances, advertising and correspondence is the responsibility of Diane Nadeau, the third member of the management team. This TVC management team has the appropriate experience to operate the passenger service for which it applied.

All drivers are required to have a Class 2 with air license, a clean driver abstract and be of good moral standards. Drivers would be recruited through Facebook, radio, word of mouth and the internet. The driver recruitment policy and driver standards appear satisfactory

Trips would be booked online, with an app on a passenger's smartphone or tablet and through third parties. Tickets will be available through Ebus and Busbud websites. The ICB service would be marketed on the internet, on billboards and radio advertisement. Marketing of the interprovincial service would primarily be the responsibility of the bus companies from which passengers originate outside the route 2 corridor. The marketing and booking processes appear adequate for the target markets.

The application included the required profit and loss income statements and balance sheets for the most recent three years and cash flow statement for the proposed route operation for 36 months beginning January 2021. The income statements were consistent with the ownership change in 2018 and the challenges posed by COVID on a company dependent on tourism in 2020. The balance sheets indicate that TVC is financially sound.

The cash flow forecasts indicate a consistent positive cash flow throughout the 36-month forecast period. The revenue flow was based on a passenger forecast that utilized input from three former employees of Greyhound who provided service on the proposed route. All three persons were knowledgeable of the proposed route in their managerial and supervisory positions and local experience. This input was supplemented with inquiries to employers who potentially would value bus service on this route for its employees or business associates. The Board accepts this forecast as reasonable.

TVC appears to have adequate fleet, driver and financial capacity to start up and service the proposed ICB service, Route 2, on a weekly basis. This in combination with its experience and operational knowledge indicate the capability to establish and maintain a reliable ICB service for the proposed Route 2.

Board Finding

Based on the information and evidence above, I find that Thompson Valley Charters Ltd. is a fit and proper entity to provide the proposed service, and that it has demonstrated it is capable of providing the service.

(2) Is there is a public need for the service the applicant proposes to provide?

An applicant is required to demonstrate public need by showing that there are people who would use the proposed service. Applicants should provide clear information about the service it proposes, and they should provide supporting evidence that is factual and objective. They should not rely on general claims and their own opinion. The Board reviews applications and considers the extent and type of need that has been demonstrated for the proposed service.

The Board looks at the state of inter-city bus services in the area where the applicant is applying to operate. It may consider such things as:

- Will the service fill a gap in the market?

- Has an inter-city bus company recently left the market?
- Has the applicant shown that current service levels are unsatisfactory?

Analysis of Public Need

The applicant proposes to operate an ICB service between Kamloops and the BC/AB border along highways 5 and 16. The target market is a corridor described “*a rural route. Many people along this route need to come to the larger centre of Kamloops for doctors, shopping etc.*” The applicant also identifies an interline market: “*This route will also offer service for those to transfer onto Jasper and Edmonton.*” The minimum service frequency would be two round trips per week. There would be fixed pickup locations in nine communities, the two endpoints of Kamloops and the BC/AB border (or location in Alberta such as Jasper) and the seven communities between these endpoints. The bus service would pick up and drop off anywhere along this route, even at locations that are not listed as a route point for this route as long as a reservation is made.

The applicant recognizes the absence of ICB service to these communities connecting to Kamloops.

The applicant’s proposed Route 2 is one segment of Route N operated by Greyhound until October 2018. Route N connected Vancouver with the Alberta/BC border on Highway 16 through Kamloops, serving 11 route points between Kamloops and the Alberta Border. Until February 2018, the Greyhound licence set a minimum route frequency (MRF) requirement of 14 trips per week for route N and between 7 and 14 trips per week for each route point. After February 2018, the minimum route frequency requirements for each route point on Route N was reduced to 4 trips per week (2 in each direction). Greyhound Transportation Canada ULC announced in July 2018 that it would exit almost all of Western Canada in October 2018.

The submissions in the Greyhound application to reduce the frequency of service in 2018 indicated an existing demand for bus services and a need for connectivity to larger regional centres for medical and other reasons to travel to and from communities in B.C. and Alberta.

On July 11, 2018, the Passenger Transportation Board announced a process to fast-track applications from operators who want to serve corridors that would be left without commercial inter-city bus service as a result of Greyhound Canada’s withdrawal from BC. “To encourage other operators to fill the gap left by Greyhound’s exit, the Board is “fast-tracking” applications and using a simplified application process. This package was available for operators applying to operate inter-city buses (ICBs) on corridors in B.C. that:

1. have no commercial ICB service, or
2. will not have a commercial ICB service when Greyhound Canada withdraws its bus service from BC on October 31, 2018.

Therefore, the policies set out in the simplified application package are appropriate to this application: *Generally, with the simplified ICB process, the PT Board is taking the view that a withdrawal of the sole carrier on a route creates a public need for a replacement service.*

There have been multiple bus routes established connecting Kamloops with other areas of British Columbia and to the BC/AB border but none traversing the communities between Kamloops and the BC/AB border on Highway 5 onward to Highway 16 and the BC/AB border.

Route 2 for which TVC seeks to provide service is identical to the Kamloops to BC/AB border segment of Route N that was abandoned by Greyhound. Vavenby and Tete Jaune Cache Junction are not included in the TVC list of service points. However, TVC would pick up and drop off anywhere along this route, even at locations that are not listed as a route point for this route as long as a reservation is made. Vavenby is on Highway 5 and Tete Jaune Cache Junction is at the junction of Highways 5 and 16. Therefore, the policies set out in the simplified application package are appropriate to this application.

Board Finding

The applicant's Route 2 service replaces the former Greyhound service Route N. I consider the prior service and current gap as representing public need. Based on the evidence and information noted above, I find that there is a public need for the service the applicant proposes for Route 2.

(3) Would approving the application support sound economic conditions in the passenger transportation business in British Columbia?

In considering sound economic conditions, the Board strives to balance public need for available, accessible and reliable commercial passenger transportation services with overall industry viability and competitiveness. The Board considers the issue from a wide-ranging perspective, which includes a consideration of harm to other industry participants. Generally speaking, it is the Board's view that the overall economic interests of the transportation business weigh more heavily than the economic and financial interests of any particular applicant or submitter.

The Board considers how the service could benefit the market and whether the market has the capacity to absorb additional services. It may consider such things as:

- Will the service give the public additional transportation options?
- Does the market place have the capacity to absorb another service?
- Are there inter-city bus providers in the target market area?
- Will the services supplement another non-transportation business?

Analysis of Sound Economic Conditions

There are no existing competitors providing ICB service to the municipalities along the proposed route. In addition to providing service to and from Kamloops, the new route could increase the demand for service provided by other ICB providers that provide service to Kamloops through connections. Providing bus service on this route also creates another routing alternative between points west of Kamloops to and from northern Alberta increasing bus demand for TVC and the connecting ICB providers.

TVC is currently licensed to provide a seasonal ICB service and year-round charter service. The Route 2 market provides additional demand and another revenue stream to improve the utilization of TVC's vehicle fleet. The board requires a minimum service frequency to be provided and the applicant states that Route 2 would be a scheduled route on the calendar all the time and other services booked around this schedule. Should there be competing demand for the existing fleet capacity, the essential service provided to the rural communities would not be compromised.

Board Finding

Overall, I find that approving this application will provide needed services to an unserved market. It will also complement both the existing services provided by the applicant and the services provided by ICB carriers that connect at the endpoints of the proposed route. I find that approving the application would promote sound economic conditions in the passenger transportation industry in BC.

(4) Other Matters

The published application summary:

- omitted a service exception (for Christmas and New Year's Day) from the service section of existing terms and conditions
- omitted a seasonal operational requirement from existing terms and conditions respecting the operation of Route 1.
- misattributed a proposed service exception regarding pre-booking to both Routes 1 and 2 when this was requested for Route 1 only.

The approved terms and conditions in Appendix 1(b) reflect corrections and, for this reason, differ from the published summary.

VII. Conclusion

For the reasons above, this application is approved in whole. The Board establishes notice and activation requirements, and terms and conditions of licence that are attached to this decision as Appendix 1. This forms an integral part of the decision.

To ensure a smooth transition of service, I am requiring the applicant to post time schedules and implement its time schedules for the proposed route stops and website reservations by the dates set out in Appendices I and II of this decision.

The terms and conditions of licence specify required stops and minimum frequencies. The applicant may, however, at some point want to expand its service to other stops along the approved routes. I have, therefore, approved a term and condition of licence that allows this flexibility.

Thompson Valley Charters Ltd.

Appendix 1: Terms & Conditions

(a) Activation:

Appendix 1: Terms & Conditions: Issuance of Licence with ICB Authorization

1. General:

A Passenger Transportation Licence must be issued by the Registrar of Passenger Transportation under section 29 of the Passenger Transportation Act or renewed under section 34 before the special authorization approved in this decision may be exercised.

2. Direction to the Applicant:

Unless otherwise ordered by the Passenger Transportation Board, **THOMPSON VALLEY CHARTERS LTD.** must, no later than 6 weeks from the date of this decision:

- a. post time schedules online and make available to the public online its reservation system to enable advance bookings.
- b. provide copies or links to the Registrar of Passenger Transportation.

3. Notice to Registrar

A licence that includes the Inter-City Bus Authorization approved by the Board in this decision may only be issued after the Registrar is satisfied that **THOMPSON VALLEY CHARTERS LTD.** has met requirements set out in 2(a) above.

(b) Licence:

Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms & Conditions	
Definitions	“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation
A. Legislative Requirements	
Vehicle Identifiers	Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is: <ul style="list-style-type: none">(a) issued to the licensee by the Registrar; or(b) authorized by the Registrar to be issued by the licensee.
B. Services	
Services	Transportation of passengers must be provided: <ul style="list-style-type: none">(a) on a scheduled basis; and(b) in accordance with minimum frequencies and other terms and conditions of licence that apply to the routes and route points.
Schedules	The licence holder must publish, in a manner accessible to the general public, a schedule for each route with the time and location of each stop; and must carry in each vehicle a copy of the schedule that the vehicle is following. Service is not required on Christmas Day or New Year’s Day when the break in service is noted on the published schedule.
Service Exception	Service is not required on Christmas Day or New Year’s Day when the break in service is noted on the published schedule.
Engaged Carrier Authorization	The holder of this licence may operate as an inter-city bus when engaged by another licensed operator in the following limited circumstances: <ul style="list-style-type: none">(a) the other licensed operator must have a special authorization to operate an inter-city bus under a licence issued pursuant to the <i>Passenger Transportation Act</i> (British Columbia) or the <i>Motor Vehicle Transport Act</i> (Canada);(b) the holder of this licence must have signed written authorization from the other licensed operator specifying the terms by which the licence holder is engaged including the period for which the written authorization is valid;

	<p>(c) the holder of this licence must operate its vehicles in accordance with all the applicable terms and conditions of the other licensed operator's licence; and</p> <p>(d) the holder of this licence must carry in its vehicles a copy of the written authorization referred to in paragraph (b) and a copy of the terms and conditions of the other licensed operator's licence when operating under this engaged carrier authorization.</p>
Route 1	
Terminating Point 1:	City of Kamloops
Terminating Point 2:	Sun Peaks Resort
Corridors:	Highway 5 Heffley Louis Kingsley Creek Road
Route Points	Minimum Frequencies
City of Kamloops	1 trip per day (each direction)
Sun Peaks Resort	1 trip per day (each direction)
<p>Seasonal Operation:</p> <p>Each year, service must commence during the month of November, be maintained on a daily basis throughout the "winter season" and then cease during the period comprising the last 15 days of March and first 15 days of April.</p>	
<p>Limited Pick Up & Drop Off:</p> <p><i>Northbound: City of Kamloops to Sun Peaks Resort</i></p> <p>Passengers may only be picked up only from the City of Kamloops through until (but not including) arrival at Sun Peaks Resort. Scheduled pickup locations may be served on a reservation-only basis when the published schedule indicates that a reservation is required for pick up at those particular stops. All passengers are dropped off at Sun Peaks Resort.</p> <p><i>Southbound: Sun Peaks Resort to City of Kamloops</i></p> <p>Passengers are picked up from Sun Peaks Resort only and may only be dropped off "as required" at scheduled drop off locations along the route.</p>	

Route 2	
Terminating Point 1:	City of Kamloops
Terminating Point 2:	BC/Alberta Border (HWY 16)
Corridors:	Highway 5 and Highway 16
Route Points	Minimum Frequencies
City of Kamloops	2 trips per week in each direction
District of Barriere	2 trips per week in each direction
Little Fort	2 trips per week in each direction
District of Clearwater	2 trips per week in each direction
Avola	2 trips per week in each direction
Blue River	2 trips per week in each direction
Village of Valemount	2 trips per week in each direction
Mount Robson	2 trips per week in each direction
BC/Alberta border (Highway 16)	2 trips per week in each direction
Alternative Points	The licence holder may pick up or drop off passengers at any location, municipality or unincorporated area that is between the terminating points and along the highway corridors for the inter-city bus routes below.
Service Exception	<p>Routes may only be operated on a “pre-booked” or “reservation required” basis if the route points are:</p> <ul style="list-style-type: none"> (a) designated as reservation required in the licence; (b) identified as pre-booked or reservation required in all current; published schedule information; and (c) available at all times for pre-booking or reservation on the licensee’s website. <p>When these conditions are met and when no reservations have been received for pick up or drop off at one or more points on the route by the time service is scheduled to be provided, the licence holder has the option of not providing service to those points that would otherwise be required.</p>

C. Other Requirements	
Transfer of a licence	This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .
Liquor Control and Licensing Act Cannabis Control and Licensing Act	The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .